

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

TRAVELERS CASUALTY AND SURETY COMPANY as
Administrator for RELIANCE INSURANCE COMPANY,
Plaintiff,

vs.

DORMITORY AUTHORITY - STATE OF NEW YORK,
TDX CONSTRUCTION CORP. and KOHN PEDERSEN
FOX ASSOCIATES, P.C.,

Defendants.

Case No. 07-CV-6915 (DLC)
ECF CASE

DORMITORY AUTHORITY OF THE STATE OF NEW
YORK and TDX CONSTRUCTION CORP.,

Third-Party Plaintiffs,

vs.

TRATAROS CONSTRUCTION, INC.,

Third-Party Defendant.

TRATAROS CONSTRUCTION, INC. and TRAVELERS
CASUALTY AND SURETY COMPANY,

Fourth-Party Plaintiffs,

vs.

CAROLINA CASUALTY INSURANCE COMPANY;
BARTEC INDUSTRIES INC.; DAYTON SUPERIOR
SPECIALTY CHEMICAL CORP. a/k/a DAYTON
SUPERIOR CORPORATION; SPECIALTY
CONSTRUCTION BRANDS, INC. t/a TEC; KEMPER
CASUALTY INSURANCE COMPANY d/b/a KEMPER
INSURANCE COMPANY; GREAT AMERICAN
INSURANCE COMPANY; NATIONAL UNION FIRE
INSURANCE COMPANY OF PITTSBURGH, PA.;
UNITED STATES FIRE INSURANCE COMPANY;
NORTH AMERICAN SPECIALTY INSURANCE
COMPANY; ALLIED WORLD ASSURANCE COMPANY
(U.S.) INC. f/k/a COMMERCIAL UNDERWRITERS
INSURANCE COMPANY; ZURICH AMERICAN
INSURANCE COMPANY d/b/a ZURICH INSURANCE
COMPANY; OHIO CASUALTY INSURANCE
COMPANY d/b/a OHIO CASUALTY GROUP;
HARLEYSVILLE MUTUAL INSURANCE COMPANY
(a/k/a HARLEYSVILLE INSURANCE COMPANY.);

**TRAVELERS CASUALTY
AND SURETY COMPANY'S
AND TRATAROS
CONSTRUCTION, INC.'S
ANSWER TO
COUNTERCLAIMS AND
CROSS-CLAIMS OF
CASTRO-BLANCO AND
ARQUITECTONICA**

JOHN DOES 1-20 and XYZ CORPS. 1-19,

Fourth-Party Defendants.

KOHN PEDERSEN FOX ASSOCIATES, P.C.,

Third-Party Plaintiff,

vs.

WEIDLINGER ASSOCIATES CONSULTING
ENGINEERS, P.C., CASTRO-BLANCO PISCIONERI
AND ASSOCIATES, ARCHITECTS, P.C.,
ARQUITECTONICA NEW YORK, P.C., COSENTINI
ASSOCIATES, INC., CERMAK, PETERKA PETERSEN,
INC., JORDAN PANEL SYSTEMS CORP., TRATAROS
CONSTRUCTION, INC. and LBL SKYSYSTEMS (U.S.A.),
INC.,

Third-Party Defendants.

Plaintiff/Counterclaim Defendant/Fourth-Party Plaintiff, Travelers Casualty and Surety Company (“Travelers”), and Third-Party Defendant/Fourth-Party Plaintiff, Trataros Construction, Inc. (“Trataros”), by and through their attorneys, Dreifuss Bonacci & Parker, LLP, as and for their Answer to the counterclaims and cross-claims of Third-Party Defendants, Castro-Blanco Piscioneri and Associates, Architects, P.C. and Arquitectonica New York, P.C. (hereinafter, the “Cross-Claims”), allege as follows:

**ANSWER TO CROSS-CLAIM AND COUNTERCLAIM FOR
CONTRIBUTION AND/OR INDEMNIFICATION**

1. Travelers and Trataros are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraphs 1-31, 33-34, 37-40, and 42-45 of the “Answer of Castro-Blanco and Arquitectonica to Kohn Pedersen Fox Associates, P.C.’s Third-Party Complaint” (hereinafter the “Third-Party Answer”). Travelers and Trataros deny the allegations set forth in Paragraphs 32, 35-36, and 41 of the Third-Party Answer. Travelers is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 46 of the Cross-Claims, except said allegations are denied to the extent

they allege liability on the part of Travelers and Trataros. Trataros is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 46 of the Cross-Claims, except said allegations are denied to the extent they allege liability on the part of Trataros and Travelers.

2. Travelers is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 47 of the Cross-Claims, except said allegations are denied to the extent they allege liability on the part of Travelers and Trataros. Trataros is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 47 of the Cross-Claims, except said allegations are denied to the extent they allege liability on the part of Trataros and Travelers.

**ANSWER TO CROSS-CLAIM AND COUNTERCLAIM
FOR CONTRACTUAL INDEMNIFICATION**

3. Travelers and Trataros repeat and reallege their answers to Paragraphs 1-45 of the Third-Party Answer and Paragraphs 46-47 of the Cross-Claims as though same were fully set forth herein. Travelers is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 48 of the Cross-Claims, except said allegations are denied to the extent they allege liability on the part of Travelers and Trataros. Trataros is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 48 of the Cross-Claims, except said allegations are denied to the extent they allege liability on the part of Trataros and Travelers.

4. Travelers is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 49 of the Cross-Claims, except said allegations are denied to the extent they allege liability on the part of Travelers and Trataros. Trataros is without knowledge or information sufficient to form a belief as to the truth of the allegations

contained in Paragraph 49 of the Cross-Claims, except said allegations are denied to the extent they allege liability on the part of Trataros and Travelers.

WHEREFORE, Travelers and Trataros demand judgment against Third-Party Defendants, Castro-Blanco Piscioneri and Associates, Architects, P.C. and Arquitectonica New York, P.C. for the following relief:

- a. dismissal of the Cross-Claims with prejudice;
- b. award of attorneys fees, costs and disbursements; and
- c. such other and further relief as the Court deems just and proper.

AFFIRMATIVE DEFENSES

FIRST AFFIRMATIVE DEFENSE

The Cross-Claims fail to state a cause of action upon which relief can be granted.

SECOND AFFIRMATIVE DEFENSE

The Cross-Claims are barred by the doctrine of estoppel.

THIRD AFFIRMATIVE DEFENSE

The Cross-Claims are barred by the doctrine of unclean hands.

FOURTH AFFIRMATIVE DEFENSE

The Cross-Claims are barred by the doctrine of waiver.

FIFTH AFFIRMATIVE DEFENSE

The Cross-Claims are barred as they may not properly be interposed in this action.

SIXTH AFFIRMATIVE DEFENSE

The Cross-Claims are barred under the doctrine of release.

SEVENTH AFFIRMATIVE DEFENSE

The Cross-Claims are barred by documentary evidence.

EIGHTH AFFIRMATIVE DEFENSE

Travelers and Trataros reserve their rights to rely upon any and all additional defenses available to them, and all Defendants, third-party defendants, fourth-party defendants, and other parties to the above-captioned matter, and any and all defenses asserted by Trataros and/or Travelers against claims or counter-claims asserted by any party to this action.

NINTH AFFIRMATIVE DEFENSE

Travelers and Trataros reserve their rights to rely upon any and all additional defenses which may be disclosed during discovery in the within action.

Dated: Florham Park, New Jersey
April 8, 2008

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TO: see attached Service List

Travelers Cas. and Sur. Co. v. Dormitory Auth. – State of N.Y., et al.
United States District Court, Southern District of New York
Civil Action No. 07-CV-6915

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